



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

FITZPATRICK CELLA HARPER &
SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

COPY MAILED

NOV 09 2006

OFFICE OF PETITIONS

In re Patent No. 6,944,410 : DECISION ON
Naito et al. : REQUEST FOR RECONSIDERATION
Issue Date: September 13, 2005: OF
Application No. 10/701,451 : PATENT TERM ADJUSTMENT
Filed: November 6, 2003 : and
Atty Docket No. 00862.023294 : NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed November 10, 2005. Patentees request that the patent term adjustment indicated in the patent be corrected from zero (0) days to sixty-two (62) days.

The request for reconsideration of patent term adjustment is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of sixty-two (62) days.

On September 13, 2005, the above-identified application matured into U.S. Patent No. 6,944,410, with a revised patent term adjustment of 0 days. On November 10, 2005, patentees timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 62 days. Patentees dispute the reduction of 86 days associated with the filing on March 21, 2005, of an Information Disclosure Statement after the mailing of the notice of allowance. Patentees assert that the paper filed on that date was a request for acknowledgment of an IDS filed November 6, 2003 and that no reduction is warranted.

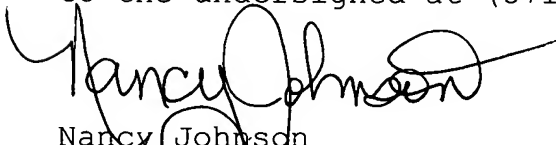
Patentees' arguments and evidence have been considered, and found persuasive. A review of the record reveals that on March 21, 2005 applicants made a Request for an Initialed IDS, supplying a copy of the 1449 filed prior to the mailing of the notice of allowance. Under the circumstances the filing on March 21, 2005 of the IDS along with a letter requesting return of an initialed IDS should not be considered "a failure to engage in reasonable efforts" to conclude processing or examination of an application and should not result in reduction of the patent term adjustment pursuant to 37 CFR 1.704(c)(10). The Notice of Allowance, the first Office communication after the filing of the IDSs, did not reference this IDS. The Communication filed March 21, 2005, requesting the IDS be initialed was the first opportunity by applicants to address the matter. Thus, the reduction of 86 days associated with the filing of this paper is not warranted.

In view thereof, the patent should have issued with a patent term adjustment of 62 days.

Receipt of the \$200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by SIXTY-TWO (62) days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 6,944,410 B2
DATED : September 13, 2005
INVENTOR(S) : Naito et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (0) days

Delete the phrase "by 0" and insert – by 62 days--